

## § 203.51

## 24 CFR Ch. II (4–1–07 Edition)

(2) The mortgagor and the mortgagee shall execute a rehabilitation loan agreement, approved by the Commissioner, setting forth the terms and conditions under which advances will be made.

(3) The advances shall be made as provided in the rehabilitation loan agreement.

(4) The principal amount of the mortgage shall be held by the mortgagee in an interest bearing account, trust, or escrow for the benefit of the mortgagor pending advancement to the mortgagor or his creditors as provided in the rehabilitation loan agreement.

(5) The loan shall bear interest at the rate prescribed in § 203.20 on the amount advanced to the mortgagor or its creditors, and the amount held in an account or trust for the benefit of the mortgagor.

(6) If paragraph (k) of this section applies, the rehabilitation loan agreement shall restrict advancement to the mortgagor, or to creditors other than the mortgagee, so that any loan proceeds in excess of the 85 percent set forth in paragraph (f)(1)(iii) of this section shall not be advanced until the property is sold to a purchaser described in paragraph (k)(2) of this section.

(k) In the case of a dwelling (1) to be occupied neither as a principal residence nor as a secondary residence and (2) where the loan is approved for a limit higher than the 85 percent set forth in paragraph (f)(1)(iii) of this section, the eligible non-occupant mortgagor (as defined in § 203.18(f)(3)) shall certify to the Commissioner that:

(1) The mortgagor will not rent (except for a rental term of not less than 30 days and not more than 60 days), sell (except where the insured mortgage is paid in full as an incident of the sale), or occupy the property before a due date approved by the Commissioner, except with the prior written approval of the Commissioner;

(2) The mortgagor agrees that, if the property is not sold before a due date approved by the Commissioner to a purchaser, acceptable to the Commissioner, who will occupy the property, assume personal liability, and agree to pay the mortgage indebtedness, any amount held in escrow, trust, or spe-

cial account under paragraph (j) of this section will be applied in reduction of the outstanding principal amount of the mortgage as of the due date approved by the Commissioner;

(3) The mortgagee agrees that any portion of the fund held in escrow, trust, or special account, not applied to the mortgage in accordance with the provisions of this paragraph (k), shall be deducted from the amount of the insurance benefits to which the mortgagee would otherwise be entitled if a claim for insurance benefits is filed.

(l) *Rehabilitation loan consultants.* HUD maintains a list of qualified consultants, in accordance with §§ 200.190 through 200.193 of this title. When the borrower elects to use the services of a consultant, the lender must select a consultant on the list to perform one or more of the following tasks:

(1) Conduct a preliminary feasibility analysis before or after the submission of a sales contract;

(2) Prepare the cost estimate, work write-up, and architectural exhibits required for the rehabilitation of the property;

(3) Conduct a plan review; and

(4) Conduct the draw inspections for the release of funds during the construction phase of the project.

(m) With regard to loans under this section executed on or after December 27, 2005, the Commissioner shall charge an up-front and annual MIP in accordance with 24 CFR 203.284 or 203.285, whichever is applicable.

[45 FR 33966, May 21, 1980, as amended at 45 FR 76378, Nov. 18, 1980; 50 FR 19926, May 13, 1985; 52 FR 48201, Dec. 21, 1987; 53 FR 8881, Mar. 18, 1988; 53 FR 9869, Mar. 28, 1988; 55 FR 34806, Aug. 24, 1990; 57 FR 58347, Dec. 9, 1992; 58 FR 41003, July 30, 1993; 59 FR 13882, Mar. 24, 1994; 62 FR 30226, June 2, 1997; 67 FR 52381, Aug. 9, 2002; 70 FR 37156, June 28, 2005]

### § 203.51 Applicability.

The provisions of §§ 203.18 (a), (c), (d), (e)(1), and (f); § 203.29(c); § 203.31; § 203.43(c); 203.43(k); § 203.43(g); § 203.43d(a), § 203.43g(a)(1); § 203.43j(e); § 203.45(g); § 203.49(h); § 203.50(f); and § 203.50(k) of this subpart apply to mortgages insured:

(1) Pursuant to a conditional commitment or master conditional commitment issued on or after September 24, 1990; or

(2) In accordance with the Direct Endorsement program, if the underwriter of the mortgagee signs the appraisal report or master appraisal report for the property on or after September 24, 1990; or

(3) Pursuant to a certificate of reasonable value or master certificate of reasonable value issued by the Department of Veterans Affairs on or after September 24, 1990.

[55 FR 34806, Aug. 24, 1990, as amended at 57 FR 58347, Dec. 9, 1992; 61 FR 36453, July 10, 1996]

**§ 203.52 Acceptance of individual residential water purification equipment.**

If a property otherwise eligible for insurance under this part does not have access to a continuing supply of safe and potable water without the use of a water purification system, the requirements of this section must be complied with as a condition to acceptance of the mortgage for insurance. The mortgagee must provide appropriate documentation with the submission for insurance endorsement to address each of the requirements of this section.

(a) *Equipment.* Water purification equipment must be approved by a nationally recognized testing laboratory acceptable to the local or state health authority.

(b) *Certification by local (or state) health authority.* A local (or state) health authority certification must be submitted to HUD which certifies that:

(1) A point-of-entry or point-of-use water purification system is currently in operation on the property. If the system in operation employs point-of-use equipment, the purification system must be employed on each water supply source (faucet) serving the property. Where point-of-entry systems are used, separate water supply systems carrying untreated water for flushing toilets may be constructed.

(2) The system is sufficient to assure an uninterrupted supply of safe and potable water adequate to meet household needs.

(3) The water supply, when treated by the equipment, meets the requirements of the local (or state) health authority, and has been determined to meet local or state quality standards for drinking water. If neither state nor local standards are applicable, then quality shall be determined in accordance with standards set by the Environmental Protection Agency (EPA) pursuant to the Safe Drinking Water Act. (EPA standards are prescribed in the National Primary Drinking Water requirements, 40 CFR parts 141 and 142.)

(4) There exists a Plan providing for the monitoring, servicing, maintenance, and replacement of the water equipment, which Plan meets the requirements of paragraph (f) of this section.

(c) *Mortgagor notice and certification.*

(1) The prospective mortgagor must have received written notification, before the mortgagor signed a sales contract, that the property has a hazardous water supply that requires treatment in order to remain safe and acceptable for human consumption. The notification to the mortgagor must identify specific contaminants in the water supply serving the property, and the related health hazard arising from the presence of those contaminants.

(2) The mortgagor must have received, with the notification described in paragraph (c)(1) of this section, a written good faith estimate of the maintenance and replacement costs of the equipment necessary to assure continuing safe drinking water.

(3) A copy of the notification statement (including cost estimates), dated before the date of the sales contract, and signed by the prospective mortgagor to acknowledge its receipt, must accompany the submission for insurance endorsement. If a sales contract is signed in advance of the disclosure required by this paragraph, another sales contract must be executed after the information is provided to the prospective mortgagor and he or she has acknowledged receipt of the disclosure.

(4) The prospective mortgagor must sign a certification, substantially in the form set out in this paragraph (c)(4), at the time the application for mortgage credit approval is signed.